

**REMARKS**

Claims 1-105 are currently pending in this application. Applicant has herein amended claims 1, 25-28, 48-51, 71-74, 92-97, 100-103 and 105. Applicant submits that no new matter has been entered by way of this amendment. Support for the foregoing Amendments may be found throughout the specification, for example in originally filed Figs. 1, 6A, and 6B, as well as the corresponding description on page 13-16 of the specification. Applicant respectfully requests reconsideration of the above-identified application, in view of the following remarks.

**Claim Rejections – 35 U.S.C. § 102/103**

Claims 1-10, 12-19, 21-37, 39-60, 62-67, 69-83, 85-89 and 91-103 have been rejected under 35 U.S.C. § 102(e), as allegedly being anticipated by Al-omari, et al. (US Patent No. 6,438,741) (Al-omari). Claims 20, 68, 90, 104 and 105 have been rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over Al-omari, et al., in view of Dreisch, Jr., et al. (US Patent Application No. 2003/0065648) (Dreisch Jr.). Claims 11, 38, 61 and 84 have been rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over Al-omari, et al., in view of Messina, et al. (US Patent Application No. 2003/0061215) (Messina). Applicant respectfully traverses the rejection and submit that the amended claims are patentably distinct from the cited reference.

Amended independent claim 1 recites *inter alia*, “evaluating at least one system performance characteristic associated with at least one database engine, system management parameters, a user-access record, and the query to determine system usage, prior to submission of the query to the database engine....” Applicant submits that that cited references, taken alone or

in combination do not disclose, teach or suggest the elements recited in amended independent claim 1.

Al-omari is directed to a system and method for eliminating compile time explosion in a top down rule based system using selective sampling. More generally, Al-omari, is a query optimization system providing an alternative to conventional processing-intensive recursive analysis of complex database queries. (See, Al-omari, Col. 3., lines 1-45). In these passages, Al-omari discusses the primary “problem with conventional query optimizers” and a summary of Al-omari’s solution to the problem – implementing “a search engine and a database implementor (DBI) that are used to generate an optimal plan for an input query....” Al-omari’s system components are used to “produce more promising solutions, rather than [evaluate] all solutions.”).

The specification of the instant application suggests, “The query parameters may be optimized by available third-party query optimization tools known to those of ordinary skill in the art.” (See, specification, page 7, lines 16-17). Al-omari is simply an example of one of the available third-party query optimization tools that would be known to those of ordinary skill in the art. Accordingly, Applicant submits that Al-omari does not disclose, teach or suggest evaluating at least one system performance characteristic, system management parameters, a user-access record, as well as the query, prior to submitting the query to a database engine, as recited in amended independent claim 1. Furthermore, Applicant submits that neither Dreisch, Jr.’s “maintaining query implementation information” nor Messina’s “sharing contact information with users making similar queries to the database”, appear to remedy the deficiencies

discussed above regarding Al-omari and amended independent claim 1 (See, Dreisch Jr.'s and Messina's respective abstracts).

Therefore, Applicant respectfully submits that for at least these reasons, amended independent claim 1 is patentably distinct from the cited references, taken either alone or in combination. Applicant also submits that the amended independent claims 25-28, 48-51, 71-74, 92-97, 100-103 and 105, which have been amended to further clarify the evaluation aspect of the invention are patentably distinct from the cited references for at least similar reasons. Further, Applicant submits that claims 2-24, 29-47, 52-70, 75-91, 98, 99, and 104, which are directly or indirectly dependent from the amended independent claims 1, 28, 51, 74, 97, and 103, respectively, are also patentably distinct from the cited references for at least similar reasons. Accordingly, Applicant requests withdrawal of the rejections on these grounds.

**CONCLUSION**

Applicant respectfully requests reconsideration in view of the foregoing amendments and remarks, respectfully submits that the claims as presented herein are allowable over the art of record and that the application is in condition for allowance, which action is earnestly solicited.

The Examiner is invited to contact the undersigned at the telephone number below, should that in anyway facilitate prosecution.

Applicant believes that the attached extension of time is sufficient for the timely submission of this paper. However, should any supplemental extension of time be necessary to render this filing timely, such extension is hereby petitioned and the Commissioner is hereby authorized to charge any additional fees which may be required for this paper, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 4241-4001

Respectfully submitted,  
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